

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRANDON ASSOCIATES, LLC,
Plaintiff,

v.

FAILSAFE AIR SAFETY SYSTEMS CORP.,
Defendant.

Civil Action No. 04-12013 NMG

REQUEST FOR DEFAULT

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, the Defendant, *Failsafe Air Safety Systems Corp.* (“Failsafe”) respectfully asks this Court to enter a judgment of default as to Failsafe’s counterclaim against the Plaintiff, *Brandon Associates, LLC* (“Plaintiff”).

The Plaintiff served a complaint against Failsafe on September 10, 2004, in the Superior Court of the Commonwealth of Massachusetts.¹ Failsafe subsequently removed the action to this Court (on grounds of diversity), and filed an answer and counterclaim on September 30, 2004. *See Verified Answer*, dated and filed September 30, 2004.

Plaintiff was required under Fed.R.Civ.P. 12(a)(2) to file and serve a reply to Failsafe’s counterclaim within twenty days (due October 20, 2004). As of this date, no such reply has been received. *See Affidavit of Laurie M. Ruskin In Support Of Defendant’s Request For Default*, dated October 28, 2004, attached hereto.

¹ *See Verified Complaint And Action To Reach And Apply*, dated September 8, 2004 (“Complaint”).

Accordingly, Failsafe requests that this Court enter a judgment of default.

DEFENDANT,
Failsafe Air Safety Systems Corp.
By its attorney,

s/Laurie M. Ruskin

Laurie M. Ruskin, *Of Counsel*, BBO# 630374
SWEDER & ROSS LLP
21 Custom House Street, Suite 300
Boston, MA 02110
(617) 646-4466

Dated: October 28, 2004

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served
upon the attorney of record for each of the other parties in this action
by hand or U.S. mail, this 28th day of October, 2004.

s/Laurie M. Ruskin

Laurie M. Ruskin

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AFFIDAVIT OF LAURIE M. RUSKIN
IN SUPPORT OF DEFENDANT'S REQUEST FOR DEFAULT

I, *Laurie M. Ruskin*, hereby depose and swear as follows:

1. I am an attorney in good standing in the Commonwealth of Massachusetts and Of Counsel to *Sweder & Ross LLP*, counsel in the above-captioned matter for the Defendant, *Failsafe Air Safety Systems Corp.* ("Failsafe"). I have personal knowledge of the facts contained herein, am over the age of 18 years, and am competent to testify.

2. The Plaintiff served a complaint against Failsafe on September 10, 2004, in the Superior Court of the Commonwealth of Massachusetts. Failsafe subsequently removed the action to this Court (on grounds of diversity), and filed an answer and counterclaim on September 30, 2004.

3. As of this date, a reply to Failsafe's counterclaim has not been received.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 28TH DAY OF OCTOBER, 2004.

s/Laurie M. Ruskin

Laurie M. Ruskin